

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>DALE R. AND BARBARA S. SILBERNAGEL,</p> <p>v.</p> <p>Respondent:</p> <p>ARAPAHOE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 51662</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on April 7, 2010, Karen E. Hart and Debra A. Baumbach presiding. Dale R. Silbernagel appeared pro se for Petitioners. Respondent was represented by George Rosenberg Esq. Petitioners are protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**5304 South Franklin Circle, Greenwood Village, Colorado
Arapahoe County Schedule No. 2077-14-1-08-020**

The subject property is a ranch style residence consisting of 2,268 square feet with a 1,565 square foot unfinished basement. The residence was constructed in 1974 and is situated on a 0.59 acre site. The subject is located in Greenwood Pines, a small subdivision located within Greenwood Village.

Based on the market approach, Petitioners presented an indicated value of \$590,000.00 for the subject property. Petitioners presented six comparable sales ranging in sales price from \$420,000.00 to \$1,107,000.00 and in size from 1,847 to 2,810 square feet. After adjustments the sales ranged from \$585,735.00 to \$597,005.00.

Petitioner, Mr. Silbernagel, testified the residence is one of the oldest and smallest homes in the neighborhood. There has never been any significant updating or remodeling done to the home.

Petitioners contend the subject also suffers from functional obsolescence as a result of the floor plan. There is a small master suite, small bedrooms, and a partial old-style basement. The roof was replaced in 1991 with new cedar shake shingles and the flooring in the kitchen and bathrooms was replaced. All other features and amenities have had no updating since the home was built. The majority of the homes located in the subdivision have had extensive updating, remodeling, or have been scraped off.

In searching for suitable comparable sales Petitioners' main criteria was to select sales similar in size, style, age, quality, condition, and functionality. There were a limited number of suitable comparable sales within the subdivision. Therefore, the market area was expanded to include sales in nearby areas. The adjustment calculations were based on paired sales analysis.

Mr. Silbernagel testified that the comparable sales he selected better reflect market conditions and required a lesser degree of adjustments. Comparable Sale 6 is located directly across the street and is a split level home design. A higher degree of adjustment was required on this sale however it does support Petitioners' concluded value.

Mr. Silbernagel testified he does not agree with the methodology to determine the time adjustment calculations made by Respondent. The comparable sales used by Respondent were taken from a large geographical area known as economic area 12. The methodology is flawed as a result of including market trends from a new housing development located in this area. There is a wide disparity in the factors affecting the adjustment percentage used. Also, there was a lack of sales during the first part of 2008, further supporting his contention that Respondent's analysis is flawed.

Mr. Silbernagel testified he performed a time adjustment analysis relying on a total of 33 sales: 22 sold in 2007 and 11 sales were from the first part of 2008, 6 of which took place during the last three months of the base period. He selected sales in the same subdivision and adjusted the later sale to the earlier sale for differences in gross living area, basement area and finish, number of bathrooms, garage area, age, and number of fireplaces. The computed percentage difference was then divided by the number of calendar days between the sales dates, and then multiplied by 30 to compute the monthly average rate of change.

For 2007, the paired sales analysis revealed the residential real estate market was essentially flat. For the first half of 2008 it was in decline. All of the paired sales combinations indicated a larger per month decline than Respondent's time adjustments. Each of Petitioners' sales was adjusted for a negative time adjustment.

Mr. Silbernagel testified the comparable sales used by Respondent required aggressive adjustments as a result of the large differences in physical characteristics. The only similar characteristic was the location. The adjustments made to the sales by Respondent are unsupported by the market data and do not reflect any similarities to the subject property.

Petitioners' sales are located in the larger economic area, which better reflects market trends and supports the value conclusion.

Petitioners are requesting a 2009 actual value of \$590,000.00 for the subject property.

Respondent's witness, Merry L. Fix, a Certified Residential Appraiser with the Arapahoe County Assessor's office, presented three comparable sales ranging in sales price from \$1,075,000.00 to \$1,450,000.00 and in size from 3,456 to 3,746 square feet. After adjustments were made, the sales ranged from \$849,410.00 to \$970,560.00.

Ms. Fix testified the subject property was considered good quality construction. The market area consists of a mix of home styles and ages. The comparable sales selected and utilized in the analysis were considered to be the most suitable and the best available. Adjustments for differences in physical characteristics were based on multiple regression analysis. There was a higher degree of required adjustments necessary because of the differences in physical characteristics but the adjustments are representative of market trends within that specific area.

There were a total of 35 qualified sales located in economic area 12 that took place during the base period with similar characteristics to the subject. There was only one sale that took place in the subject's immediate neighborhood.

Ms. Fix testified that the subject is located in a highly desirable area, has a high quality of construction, and is considered to be superior to many of the other areas located within that economic area. Petitioners' sales have factual errors with regards to parcel numbers, address numbers, and disqualified sales and are not considered suitable for comparison. The value assigned to the subject property is well below all the sales prices within the market area and would allow for any additional factors affecting the subject property. Ms. Fix concluded to a value of \$890,000.00 for the subject property.

Respondent assigned an actual value of \$731,300.00 to the subject property for tax year 2009.

Respondent presented sufficient probative evidence and testimony to prove that the tax year 2009 valuation of the subject property was correct.

One of the contentions was the methodology used to derive a time adjustment for changing market conditions. The Board is not convinced Petitioners' time adjustment analysis was well supported by the market data. Therefore, the Board relies on Respondent's time adjustment methodology.

The Board finds all of the sales to be less than desirable but accepts that they are the best sales available. The Board believes equal consideration should be given to all of the sales due to the large degree of adjustments.

To make an equitable analysis, Respondent adjusted five of Petitioners' six sales using the same methodology as for its own sales; Respondent did not include Petitioners' Sale 1 as it was a disqualified sale. The resulting adjusted sales range is \$551,540.00 to \$816,511.00 with four of the five sales adjusting to sales prices above \$740,000.00. Respondent's adjusted sales range is \$849,410.00 to \$970,560.00. Respondent's assigned value of \$731,300.00 is within the indicated value range of the adjusted sales and lower than seven of the eight adjusted sales prices.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 29th day of June 2010.

BOARD OF ASSESSMENT APPEALS

Karen E Hart
Karen E. Hart

Debra A. Baumbach
Debra A. Baumbach

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.

HA Flannery
Heather Flannery

